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REMARKS

I. Introduction

For the reasons set forth below, Applicant respectfully submits that all pending claims are patentable over the cited prior art references.

II. Applicant's Arguments Have Not Been Addressed By The Pending Office Action

Claim 1

Claim 1 recites in-part a protocol parser unit configured to determine whether an incoming packet is a real-time transfer protocol (RTP) packet or a transmission control protocol (TCP) packet, to direct real-time transfer protocol packets from a media access controller to the digital signal processor, and to direct transmission control protocol packets from the media access controller to a central processing unit

In the October 12, 2005 response, Applicant argued, "none of the components within the MCU 1781 of Anandakumar has a capability to determine whether an incoming packet is a RTP packet or a TCP packet, and to direct the received packets, according to its packet type, to either a digital signal processor, or a central processing unit."

In response, the Examiner reiterated that this claimed limitation is disclosed in paragraph [0318] of Anandakumar (see, page 14 last paragraph – page 15, 1st paragraph of Office Action), emphasizing on the parsing software of Anandakumar.

1. The Parsing Software of Anandakumar Does Not Receive Incoming Packet or Determine Packet Type

Applicant respectfully submits that the Examiner still has not addressed the foregoing argument. Specifically, while the pending rejection has, again, pointed the Applicant to the parsing software of Anandakumar, the rejection has failed to explain how this particular parsing software of Anandakumar, rather than other components of the MCU unit 1781, actually handles incoming packets.

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Furthermore, the rejection has not explained how the parsing software has the capability to determine whether an incoming packet is a RTP packet or a TCP packet, as Anandakumar provides no express teaching as to the functionality of this parsing software.

a. The Approach Using Structural Connection Of The Parsing Software to Assume Its Functionality Is Erroneous

Rather, the Examiner attempted to show that the parsing software, which is installed as gateway software in the MCU unit 1781, directs a RTP packet from a MAC to a DSP by a showing of the physical connection between the RTCP function block 1819 and the DSP 1511.

However, Applicant respectfully submits that such a structural connection is irrelevant to the determination of the functionality of the parsing software. Any conclusion reached through such connection is apparently contributed by assumption, which cannot be relied upon to cure the defects of the primary reference.

Moreover, the RTCP function block 1819 is functionally and structurally distinct from the MCU unit 1781. If anything, these separate and distinct elements further demonstrate that the parsing software installed in the MCU unit 1781 actually does not direct RTP packets from the parsing software in the MCU unit 1781 to the DSP 1511, as such function can arguably be carried out by the RTCP function block 1819.

Thus, absent express teaching that the parsing software actually guides RTP packets from the MAC in the MCU unit 1781 to the DSP 1511, and TCP packets from the MAC to a CPU, Applicant respectfully submits that the parsing software of Anandakumar and the claimed protocol parser unit are functionally and structurally not equivalent.

ii. Applicant's Argument With Respect To Anandakumar's Failure To Direct TCP Packets From A MAC To A CPU Was Ignored

Additionally, Applicant previously argued that the MCU unit 1781 of Anandakumar only communicates with digital signal processors 1751/1753/1755 on one side and a packet data network 351 on the other side, but does *not* interact or communicate with a central processing unit.

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Rather than responding to the argument cited above, the pending Office Action only referred the Applicant to the disclosure of Wei (USP No. 6,940,821).

a. Wei Is Not Applicable to Claims 1, 3, 5, 12 and 16-18

However, Applicant notes that claims 1, 3, 5, 12 and 16-18 have not been rejected based on the disclosure of Wei. Accordingly, the Examiner's response that Wei discloses a CPU 1102 capable of transferring data according to standard protocols such as RTP or TCP bears no weight on the proposed combination of Rabenko, Rebec and Anandakumar.

Accordingly, unless the disclosure of Wei is officially cited against the foregoing claims, Applicant respectfully submits that the rejection based on Wei is improper, and the Examiner still fails to address Applicant's argument with respect to Rabenko, Rebec and Anandakumar.

b. Wei Does Not Teach Directing Packets From A Media Access Controller To A Central Processing Unit

Even assuming *arguendo* that the citation of Wei is relevant, in order to demonstrate that Wei discloses directing TCP packets from a media access controller to a central processing unit, Wei should at least illustrate the presence of a media access controller.

However, while Wei discloses a CPU unit 1102, a media access controller is clearly absent in Wei. Thus, Applicant respectfully submits that Wei still does not cure the deficiency of Rabenko, Rebec and Anandakumar, because Wei does not show how TCP packets are directed from a media access controller to the CPU unit 1102, as recited in the aforementioned claims.

III. Mischaracterization of Sen

Further, in the previous response, Applicant argued, "Anandakumar is silent to differentiating between a RTP packet and a TCP packet using the MCU 1781."

In response, the Examiner asserted in the "Response to Arguments" section that Sen (USP No. 6,765,909) discloses this claimed limitation at col. 6, lines 40-45 and at col. 7, lines 29-33. Applicant respectfully disagrees.

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i. Sen Is Not Applicable to Claims 1, 3, 5, 12 and 16-18

Again, similar to the rejection based on Wei and as noted by the Applicant, claims 1, 3, 5, 12 and 16-18 have not been rejected based on the disclosure of Sen. Accordingly, the Examiner's response that Sen differentiates between TCP/IP header compressed packets and RTP/UDP/IP header compressed packets bears no weight on the proposed combination of Rabenko, Rebec and Anandakumar.

For at least these reasons, Applicant respectfully submits that the Examiner still fails to address how the proposed combination of Rabenko, Rebec and Anandakumar discloses or suggests determining whether an incoming packet is a RTP packet or a TCP packet.

IV. Rabenko, Rebec and Anandakumar Do Not Provide The Requisite Motivation

In the pending rejection, rather than addressing Applicant's reasons that the proposed combination lacks requisite motivation, the pending Office Action merely cut and pasted well known case laws without giving explanations as to their relevancies.

Even assuming *arguendo* that these case laws are relevant, Applicant respectfully submits that these case laws do not fulfill the Examiner's duty to respond to Applicant's argument that the alleged motivation is fabricated and not supported by the cited references, and that the secondary references render the primary reference unsatisfactory for its intended purpose.

For example, the pending Office Action has offered *no* explanation *why* one having ordinary skill in the art would somehow have been lured to go against the express objectives given by Rabenko to modify the network gateway/cable modem thereof in the manner recited by the pending claims.

i. Proposed Modification Cannot Render Prior Art Unsatisfactory for its Intended Purpose

Rabenko specifically utilizes the RTP logic 630 to convert real-time transfer protocol packets into packets having protocol-independent format utilized on the voice and data processor (alleged DSP) (see, paragraph [0240]). Hence, the Examiner's proposed modification using Anandakumar is *inconsistent* with Rabenko's express objective, because doing so would direct

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the RTP packets to the DSP without converting the RTP packets into packets having protocol-independent format for processing. The DSP would also no longer be able to process such packets, as these packets are not in the protocol-independent format.

It is clearly improper for the pending Office Action to simply *pick* and *choose* selected elements from various references to reconstruct the claimed invention. Thus, it is respectfully submitted that not only is there no disclosed need or desire for such modification as alleged by the pending rejection, doing so would effectively destroy the principle of Rabenko for its intended purpose (*see* M.P.E.P. § 2143.01 under the section entitled "Proposed Modification Cannot Render Prior Art Unsatisfactory for its Intended Purpose"), and principle of operation (*see* M.P.E.P. § 2141.02 under the section entitled "Proposed Modification Cannot Render the Prior Art Unsatisfactory for its Intended Purpose and Proposed Modification Cannot Change the Principle of Operation of a Reference"), thereby underscoring the *non-obviousness* of the claimed invention *as a whole*. *In re Fritch*, 972 F.2d 1260, 23 USPQ2d 1780 (Fed. Cir. 1992); *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984); *In re Schulpen*, 390 F.2d 1009, 157 USPQ 52 (CCPA 1968).

ii. Proposed Motivation Is Not Found In Prior Art

Furthermore, the purported motivation (i.e., "... to transmit digitized multimedia signals in real time protocol (see, page 6)") asserted by the Examiner does not appear to be found in Rebec or Anandakumar. The Office Action attempts to overcome the deficiency in Rabenko by asserting an opinion (no suggestion or support in the prior art) that one of ordinary skill in the art would have found it obvious to simply add a protocol parser unit or a decompression unit.

Even assuming *arguendo* such opinion has proper support, the alleged motivation does not appear to be required in the method of Rabenko, because the network gateway/cable modem disclosed therein already has the means by which to transmit digitized multimedia signals in real time protocol (e.g., The DSP server includes virtual device drivers (VHDs) that control the operation of and provide the facility for real time signal processing, see, [0224] and [0249]). That is, there is no disclosed need, desire or purpose for adding such capability, as Rabenko already has the necessary components for achieving this objective.

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Accordingly, the alleged motivation asserted by the pending rejection for making the proposed modification is factually nonexistent, leaving the proposed motivation as insufficient rationale for making the modification.

V. **Individual Elements Known Separately Are Irrelevant To The Determination Of Patentability For The Combination Of These Elements**

In sum, it is respectfully submitted that the proposed modifications of Rabenko are improper because the Examiner has not provided the requisite *objective evidence from the prior art* that “suggests the desirability” of the proposed modification. At best, the Examiner has attempted to show only that the elements of the claimed invention are individually known (e.g., a media access controller, a digital signal processor, a decompression unit, a central processing unit, and a protocol parser unit) without providing a *prima facie* showing of obviousness that the combination or the inter-relationship of these elements recited in the claims is known or suggested in the art.

For example, directing TCP/IP packets or RTP packets from an external network to a central processing unit as disclosed in Wei gives no indication with respect to determining whether an incoming packet is a RTP or TCP packet, and to selectively direct the RTP packet to a DSP unit and the TCP packet to a CPU unit. Further, distinguishing between TCP/IP compressed header packets and RTP compressed header packets as disclosed in Sen does not indicate using such information for selectively directing the packets to a DSP or CPU unit.

Moreover, Anandakumar teaches that the MCU unit 1781 has the capability of handling H.323 protocols and TCP/UD/IP protocols, in addition to address translation and parsing. However, there is no information which would allow a person skilled in the art to arrive at the functionalities of the claimed protocol parser unit.

Accordingly, the Examiner's attempt, for example, to reconstruct the claimed invention by alleging the claimed elements are known separately is irrelevant to the determination of patentability for the combination of these elements as recited in the pending claims.

The Examiner is directed to M.P.E.P. § 2143.01 under the subsection entitled “Fact that the Claimed Invention is Within the Capabilities of One of Ordinary Skill in the Art is Not

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Sufficient by Itself to Establish *Prima Facie* Obviousness", which sets forth the applicable standard:

A statement that modifications of the prior art to meet the claimed invention would have been [obvious] because the references relied upon teach that all aspects of the claimed invention were *individually* known in the art is *not* sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references. (citing *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993)).

In the instant case, even assuming *arguendo* that the combination of Rabenko, Rebec and Anandakumar "teach that all aspects of the claimed invention [are] individually known in the art," it is submitted that such a conclusion "is not sufficient to establish a *prima facie* case of obviousness" because there is no *objective* reason on the record to modify the teachings of the cited prior art. In contrast, the asserted motivations set forth by the Office Action are based solely on hindsight reasoning using only Applicant's specification as a guideline for the combinations. It is respectfully submitted that only Applicant's specification provides the requisite rationale for the processes recited in the pending claims.

Accordingly, it is respectfully requested that the rejection of claim 1 under 35 U.S.C. § 103 be withdrawn.

Claim 5

Claim 5 recites in-part a protocol parser unit configured to determine whether a packet is a real-time transfer protocol packet or a transmission control protocol packet, to direct real-time transfer protocol packets from a media access controller to a digital signal processor and to direct transmission control protocol packets from the media access controller to a central processing unit.

For reasons already discussed above, neither Rabenko, Rebec nor Anandakumar disclose or suggest these claimed features. Accordingly, Applicant respectfully submits that the proposed combination of Rabenko, Rebec and Anandakumar do not render claim 5 obvious.

Furthermore, claim 5 additionally recites a buffer having a plurality of queues, wherein the protocol parser unit is configured to direct packets to one of the queues and to schedule

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packets for processing based on whether the packet is a real-time transfer protocol packet or a transmission control protocol packet.

In the rejection to claims 19 and 20 (page 12, lines 14-19), the Examiner appeared to read the buffer disclosed in Rabenko as the claimed buffer. Applicant respectfully disagrees. Specifically, Rabenko only specifies a buffer having a transaction queue and a transmitter queue. However, these queues are not used for receiving TCP packets and RTP packets. Rather, the transmitter queue of Rabenko registers requests from a GCP logic, and the transaction queue receives new requests from a call management server (see, [0235]).

Thus, Applicant respectfully submits that the buffer disclosed in Rabenko cannot reasonably be construed as the claimed buffer, and requests that the rejection of claim 5 under 35 U.S.C. § 103 be withdrawn.

Claim 16

Claim 16 recites in-part a protocol parser unit configured to determine whether a packet is a real-time transfer protocol packet or a transmission control protocol packet and to direct real-time transfer protocol packets from a digital signal processor and a central processing unit to a media access controller.

For analogous reasons already discussed above with respect to claims 1 and 5, the proposed combination of Rabenko, Rebec and Anandakumar does not render claim 16 obvious because the cited prior art fails to show the foregoing claimed features.

Also, claim 16 recites a buffer having a plurality of queues, wherein the protocol passer unit is configured to direct packets to one of the queues and to schedule packets for processing based on whether the packet is a real-time transfer protocol packet or a transmission control protocol packet.

However, similar to the argument with respect to claim 5, Rabenko only specifies a buffer having a transaction queue and a transmitter queue. However, these queues are not used for receiving TCP packets and RTP packets. Rather, the transmitter queue of Rabenko registers requests from a GCP logic, and the transaction queue receives new requests from a call management server (see, [0235]).

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Thus, Applicant respectfully submits that the buffer disclosed in Rabenko cannot reasonably be construed as the claimed buffer, and requests that the rejection of claim 16 under 35 U.S.C. § 103 be withdrawn.

VI. The Rejection Of Claim 19 Under 35 U.S.C. § 103

Claim 19 is rejected under 35 U.S.C. § 103(a) as being unpatentable over US Pub No. 2005/0031097 to Rabenko in view of USP No. 5,975,531 to Rebec, and further in view of USP No. 6,765,909 to Sen and USP No. 6,940,821 to Wei. Applicant respectfully traverses this rejection for at least the following reasons.

Claim 19 recites in-part determining whether the packet is a real-time transfer protocol packet or a transmission control protocol packet, and storing the packet in one of a **plurality of queues in a buffer** and assigning a priority to the packet based on whether the packet is a real-time transfer protocol packet or a transmission control protocol packet.

In the pending rejection, the Examiner appeared to read the buffer disclosed in claim 19 and paragraph [0235] of Rabenko as the claimed buffer. Applicant respectfully disagrees.

However, as discussed above with respect to claims 5 and 16, Rabenko only specifies a buffer having a transaction queue and a transmitter queue. However, these queues are not used for storing TCP packets and RTP packets. Rather, the transmitter queue of Rabenko registers requests from a GCP logic, and the transaction queue receives new requests from a call management server (see, [0235]).

Thus, Applicant respectfully submits that the buffer disclosed in Rabenko cannot reasonably be construed as the claimed buffer, because the buffer disclosed in Rabenko does not store RTP or TCP packets. For at least these reasons, Applicant respectfully requests that the rejection of claim 19 under 35 U.S.C. § 103 be withdrawn.

Furthermore, claim 19 additionally recites directing transmission control protocol packets received in a **media access controller** to a central processing unit. The Examiner admitted that Rabenko does not disclose this claimed feature, but relied upon col. 13, lines 30-35 of Wei to cure this deficiency.

However, as discussed above with respect to claim 1, while Wei discloses a CPU unit 1102, a media access controller is clearly absent in Wei. Thus, Applicant respectfully submits

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that Wei still does not cure the deficiency of Rabenko, because Wei does not show how TCP packets are directed from a media access controller to the CPU unit 1102, as recited in claim 19.

In view of the above arguments, Applicant respectfully requests that the rejection of claim 19 under 35 U.S.C. § 103 be withdrawn.

VII. The Rejection Of Claim 20 Under 35 U.S.C. § 103

Claim 20 is rejected under 35 U.S.C. § 103(a) as being unpatentable over US Pub No. 2005/0031097 to Rabenko in view of USP No. 5,975,531 to Rebec, and further in view of USP No. 6,765,909 to Sen and USP No. 6,940,821 to Wei. Applicant respectfully traverses this rejection for at least the following reasons.

Claim 20 recites in-part directing the real-time transfer protocol packets and transmission control protocol packets to a buffer.

The Examiner admitted that Rabenko does not disclose this claimed feature, but relied upon col. 3, lines 25-50 of Dutnall to cure this deficiency. Applicant respectfully disagrees.

Specifically, Applicant respectfully submits that Dutnall does not teach that RTP packets and TCP packets are stored in queues of a buffer and priority is assigned to these packets based on whether each packet is a RTP packet or TCP packet. In particular, at col. 3, lines 23-37, Dutnall expressly refers to UDP packets which have their header information to allow for assigning a different priority to the UDP packets. At best, Dutnall teaches distinguishing between different UDP packets, but certainly does not disclose differentiating between RTP packets and TCP packets, and assigning priority based on whether the packet is a real-time transfer protocol packet or a transmission control protocol packet.

Accordingly, Applicant respectfully submits that Dutnall does not cure the deficiency of Rabenko. Thus, in view of the above arguments, Applicant respectfully requests that the rejection of claim 20 under 35 U.S.C. § 103 be withdrawn.

VIII. Finality Be Withdrawn

For all of the foregoing reasons, Applicant respectfully submits that the finality of the outstanding Office Action is premature because the pending Office Action has not addressed Applicant's argument with respect to the inter-relationship between the claimed features.

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Accordingly, without a new rejection or response to the arguments from the Examiner, the deficiencies of the pending rejections as previously argued in the amendment filed October 12, 2005 appear to still be a valid basis for the patentability of those claims.

Accordingly, Applicant respectfully submits again that the finality of the outstanding Office Action be withdrawn, and for this response to be treated as responsive to a non-final Office Action to which the next Office Action will fully respond to all the arguments presented herein.

IX. All Dependent Claims Are Allowable Because The Independent Claims From Which They Depend Are Allowable

Under Federal Circuit guidelines, a dependent claim is neither anticipated nor rendered obvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplicatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as independent claims 1, 5, 16, 19 and 20 are patentable for the reasons set forth above, it is respectfully submitted that all claims dependent thereon are also in condition for allowance.

X. Conclusion

By responding in the foregoing remarks only to particular positions taken by the Examiner, the Applicant does not acquiesce with other positions that have not been explicitly addressed. In addition, Applicant's arguments for the patentability of a claim should not be understood as implying that no other reasons for the patentability of that claim exist.

For all of the reasons set forth above, it is urged that the application is in condition for allowance, an indication of which is respectfully solicited.

If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicant's attorney at the telephone number shown below.

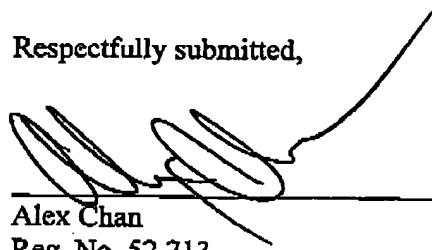
To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper,

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including extension of time fees, to Deposit Account 06-1050 and please credit any excess fees to such deposit account.

Respectfully submitted,



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